

MINISTRY OF FINANCE OF UKRAINE

ORDER

08.07.2016

city of Kyiv

No. 584

Registered
with the Ministry of Justice of Ukraine
on July 27, 2016 under No. 1047/29177

On Approving Risk Criteria for Legalization (Laundering) of Proceeds of Crime, Financing of Terrorism, and Financing of Proliferation of Weapons of Mass Destruction

Pursuant to [Part 3, Article 6, Article 11, Part 1, Article 16 of the Law of Ukraine “On Preventing and Countering Legalization \(Laundering\) of Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction”](#) and with the aim of identifying risk criteria for legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction

I HEREBY ORDER:

1. Approve the attached risk criteria for legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction.
2. Declare null and void the [State Financial Monitoring Service of Ukraine Order of August 3, 2010, No. 126 “On Approving Risk Criteria for Legalization \(Laundering\) of Proceeds of Crime or Financing of Terrorism”](#), registered with the Ministry of Justice of Ukraine on October 11, 2010 under No. 909/18204.
3. The Department of Tax, Customs Policy, and Accounting Methodology of the Ministry of Finance of Ukraine (Romanyuk Yu.P) and the Department for Coordination of the Financial Monitoring System of the State Financial Monitoring Service of Ukraine (Hayevskiy I.M.) shall duly ensure:

submittal of this order for state registration to the Ministry of Justice of Ukraine;

publication of this order.
4. This order shall become effective on the day of its official publication.
5. Control of this order implementation shall be imposed on the Deputy Minister – Chief of Staff, Ye.V. Kapinus, and the First Deputy Head of the State Financial Monitoring Service of Ukraine, Kovalchuk A.T.

Minister

O. Danyliuk

CONCURRED:

Acting Head of the State Regulatory Service of Ukraine	V.P. Zahorodniy
Minister of Justice of Ukraine	P. Petrenko
Acting Head of the National Bank of Ukraine	Ya.V. Smoliy
Head of the State Commission for Regulation of Financial Services Markets	I. Pashko
Head of the National Securities and Stock Market Commission	T.Z. Khromayev
Acting Minister of Infrastructure of Ukraine	V. Omelian
Acting Minister of Economic Development and Trade of Ukraine	M. Nefyodov
Head of the State Financial Monitoring Service of Ukraine	I. B. Cherkaskyi

APPROVED

Ministry of Finance of Ukraine Order
of July 8, 2016, No. 584

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Risk criteria for legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction

I. General provisions

1. These Criteria have been developed pursuant to the [Law of Ukraine “On Preventing and Countering Legalization \(Laundering\) of Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction”](#) (hereinafter “the Law”) to ensure compliance of the primary financial monitoring subjects with the legislation on preventing and countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction in relation to classification of their clients and detection of financial transactions which are risky and may be subject to internal financial monitoring in accordance with [Article 16 of the Law](#).
2. These Criteria shall be used by the following primary financial monitoring subjects (herein “the subjects”) in their operation:

banks, insurers (reinsurers), insurance (reinsurance) brokers, credit unions, pawnbrokers, and other financial institutions;

payment organizations, participants or members of payment systems;

commodity and other exchanges involved in financial transactions with commodities;

stock (securities) market professional participants;

postal operators and other institutions effecting financial transactions related to money transfer;

subsidiaries or offices of foreign businesses providing financial services in Ukraine;

entrepreneurs who provide intermediary services during real estate sales transactions;

business entities which trade in precious metals and stones and products therefrom for cash if the amount of the effected financial transaction equals or exceeds the amount specified in [Part 1, Article 15 of the Law](#);

Economic entities involved in lotteries and gambling, including casinos, electronic (virtual) casinos;

notaries, lawyers, lawyer bureaus and associations, auditors, auditor firms, business entities that provide accounting services, business entities that provide legal services (except for the persons that provide services under employment relations) in the cases stipulated in [Article 8 of the Law](#);

other legal entities that under their legal status are not financial institutions but provide individual financial services.

3. Subjects shall develop their own risk criteria for legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction based on these Criteria, requirements and recommendations specified by the state financial monitoring subject which effects state regulation and supervision over the relevant subject's operation, and on the subject's operation features.

4. For the purposes of these Criteria, the terms shall be used in the following meaning:

remote services – services involving financial transactions without prior direct (personal) contact with the client;

risk criterion – an indicator, characteristic feature, parameters, or a combination thereof used for risk assessment;

reliable sources – official means of disclosing information (including Internet pages) of the President of Ukraine, Cabinet of Ministers of Ukraine, Verkhovna Rada of Ukraine, National Bank of Ukraine, State Commission for Regulation of Financial Services Markets of Ukraine, National Securities and Stock Market Commission, executive authorities of Ukraine, other countries, and international intergovernmental organizations involved in countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

personal relations – social relations of individuals who enter into certain relations with regards to property or personal non-property rights;

risk assessment – analysis of a client's identification data, other available data and information on a client and client's activities, which results in determining the level of risk of legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

publicly exposed persons – national publicly exposed persons, foreign publicly exposed persons, and persons who discharge political functions in international organizations;

risk level – degree of risk of legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction established by the subject in relation to a client, which can be “low”, “medium”, and “high”.

Other terms shall be used in the meaning provided in the [Law](#).

II. Client risk assessment

1. The client risk assessment shall be done by the geographic location of the country of registration of the client or institution through which the client transfers (receives) assets, type of client, type of commodities and services the client receives from the primary financial monitoring subject.

Risk assessment shall be taken in relation to the clients who get financial or other services and/or with which business (contractual) relations are established, with account for the requirements and recommendations on risk management determined and provided by the relevant state financial monitoring subjects which, under the [Law](#), discharge the functions of state regulation and supervision over the operation of the relevant primary financial monitoring subjects.

For the first time the risk level shall be determined and recorded by the subject when establishing business (contractual) relations with a client.

2. The subject shall independently determine and record in its internal financial monitoring documents the risk assessment method and procedure taking into account the requirements and recommendations determined by the state financial monitoring subject which effects state regulation and supervision over the relevant subject's operation.

3. The subject shall periodically review its risk criteria, as well as risk management measures to update them and factor in the changes which occurred in the subject's operation and legislation on countering legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction.

4. The subject shall assign a “high” risk level in relation to the clients which meet the criteria set forth in Attachment 1 to these Criteria and in other cases specified in the requirements and recommendations of the state financial monitoring subject which effects state regulation and supervision over the relevant subject's operation.

III. Risk criteria by geographic location

1. Risk assessment by geographic location of the client's country of registration shall be undertaken in relation to a client, foreign state of stay (residence) and/or registration of which or of the

institutions through which the client transfers (receives) assets is a state which is known from reliable sources:

- 1) to be included in the duly developed and approved List of countries (territories) which do not meet or inadequately meet recommendations of international, intergovernmental organizations involved in legalization (laundering) of proceeds of crime or financing of terrorism, or financing of proliferation of weapons of mass destruction;
 - 2) to support terrorist activities, to be subjected to sanctions, embargo, or similar measures pursuant to the UN Security Council resolutions and/or legislation of Ukraine;
 - 3) to be included by the Cabinet of Ministers of Ukraine on the list of offshore zones;
 - 4) to have strategic faults in the sphere of countering legalization (laundering) of proceeds of crime or financing of terrorism, or financing of proliferation of weapons of mass destruction in accordance with the Financial Action Task Force (FATF) statements.
2. To implement measures on classification of clients during risk assessment by geographic location of the country of registration of the client or institution through which the client transfers (receives) assets, the subject may develop its own list of risk countries.

IV. Risk criteria by the client type

1. Risk assessment by the client type shall be undertaken if the client:
 - 1) is included in the List of Persons Related to Terrorist Activities or Subjected to International Sanctions developed by a designated agency;
 - 2) is a publicly exposed person or a person related thereto;
 - 3) is a non-profitable organization;
 - 4) is a foreign financial institution (except for the financial institutions registered in the European Union member states, FATF member states), with which correspondent relations are established;
 - 5) effects financial transactions which do not correspond to its financial status and/or essence of its activities;
 - 6) does not meet the requirements for financial reliability (stability) ratings of non-resident insurers and reinsurers established by the State Commission for Regulation of Financial Services Markets of Ukraine;
 - 7) is a trust, trust fund, or has a complicated ownership structure;
 - 8) provides currency exchange and/or money transfer services (except for banks and postal operators);
 - 9) is a business entity involved in lotteries and gambling, including casinos, electronic (virtual) casinos;
 - 10) is a business entity, whose operation is related to weapons manufacturing or sales;

- 11) is a non-resident joint stock company which issued bearer shares;
 - 12) is an enterprise which is known from reliable sources to be absent from its location and not to submit reports envisaged by law for two consecutive years.
2. The criterion specified in Sub-Clause 6, Clause 1 of this Section is used by insurers (reinsurers), insurance (reinsurance) brokers and does not apply to other subjects.
 3. The criterion specified in Sub-Clause 11, Clause 1 of this Section is used by all the subjects, except for designated ones, regulation and supervision over which is effected by the Ministry of Justice of Ukraine.
 4. The criterion specified in Sub-Clause 12, Clause 1 of this Section is used by the stock market (securities market) professional participants, except banks.

V. Risk criteria by the type of commodities and services provided by the subjects

Risk assessment by the type of commodities and services shall be undertaken if these are:

services of international remittances equaling or exceeding the amount specified in [Part 1, Article 15 of the Law](#);

remote services;

commodities (services), the value of which is difficult or impossible to determine, namely items of intellectual property, some types of services that have no constant market value, consulting, legal, audit services;

other commodities, services, transactions, or methods of effecting them determined by the subject independently.

VI. Risk criteria for financial transactions which may contain the risk of legalization (laundering) of proceeds

1. The risk criteria for the financial transactions which may contain the risk of legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction are determined in Attachment 2 to these Criteria.

The subject may independently determine additional risk criteria for financial transactions based on the requirements and recommendations determined by the state financial monitoring subject which effects state regulation and supervision over the relevant subject's operation.

If the subject detects a financial transactions which may contain the risk of legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction, the subject shall take all the measures required to find out whether such financial transaction is subject to internal financial monitoring.

The subject shall independently determine which risk criteria (except for the criteria provided for in the Law, the relevant state financial monitoring subject's regulatory-legal acts) shall be used by it for establishing business (contractual) relations and which ones shall be used in the process of subsequent client servicing based on the requirements and recommendations determined by the

state financial monitoring subject which effects state regulation and supervision over the relevant subject's operation.

2. A financial transaction contains the risk of legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction if it is of a complicated or unusual nature, or it is a combination of related financial transactions which do not have an obvious economic sense or obvious legal purpose.

3. A financial transaction contains the risk of legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction, where there are facts of multiple financial transactions, the nature of which suggests that their purpose is evading mandatory financial monitoring or identification (verification) provided for by the [Law](#).

Attachment 1
to Risk Criteria for Legalization
(Laundering) of Proceeds of Crime,
Financing of Terrorism, and Financing of
Proliferation of Weapons of Mass
Destruction
(Clause 4, Section II)

**Director of the Department of Tax, Customs
Policy, and Accounting Methodology**

Yu.P. Romanyuk

High risk criteria

No.	Risk criterion
	By the geographic location of the residence (stay, registration) country of the client or registration through which the client transfers (receives) assets
1.	The country is included in the duly developed and approved List of countries (territories) which do not meet or inadequately meet recommendations of international, intergovernmental organizations involved in legalization (laundering) of proceeds of crime or financing of terrorism, or financing of proliferation of weapons of mass destruction
2.	The country supports terrorist activities, is subjected to sanctions, embargo, or similar measures pursuant to the UN Security Council resolutions and/or legislation of Ukraine
3.	The country is included by the Cabinet of Ministers of Ukraine on the list of offshore zones
	By the client type
4.	The client is included in the List of Persons Related to Terrorist Activities or Subjected to International Sanctions developed by a designated agency
5.	The client is a publicly exposed person or a person related thereto
6.	The client is a foreign financial institution (except for the financial institutions registered in the European Union member states, Financial Action Task Force (FATF) member states), with which correspondent relations are established

Attachment 2
to Risk Criteria for Legalization
(Laundering) of Proceeds of Crime,
Financing of Terrorism, and Financing of
Proliferation of Weapons of Mass
Destruction
(Clause 1, Section VI)

**Risk criteria for the financial transactions which may contain the risk of
legalization (laundering) of proceeds of crime, financing of terrorism, and
financing of proliferation of weapons of mass destruction**

1. For the subjects if the client receives:

1) services which involve the use of cash, specifically in the following cases:

regular (independently established by the subject, except banks, in internal documents based on the client's operation profile) withdrawals from the client's (clients') account(s) of the cash received in the cashless form from a third person (third persons), except payment of salaries, scholarships, pensions, and social benefits;

client's attempts to exceed the legal limit on cash settlements;

significant increase (independently established by the subject in internal documents based on the client's operation profile) in the balance of the account of a client which regularly withdraws cash through the cash department by the client or client's representative;

2) services on international remittances, specifically in the following cases:

money transfers abroad in the absence of a foreign economic agreement (contract), specifically provision and return of investment (proceeds of investment operation in Ukraine), loans, credits, financial assistance, and other borrowings; payment of dividends, interest, loyalty; transfer of one's own funds to a foreign account; assistance to relatives or friends;

receiving significant amounts of foreign currency (independently established by the client in internal documents based on the client's operation profile) from non-residents to individual accounts as a salary, money transfer, adding funds to the card account;

offset of liabilities for export and import transactions;

3) remote services, specifically in the case of regular (independently established by the subjects, except banks, in internal documents based on the client's operation profile) receiving by the client of remote services if the client suspects that such transactions may be related to legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

4) services on securities sale in the following cases:

person's one-time buying (selling) of a large package of unlisted emission securities;

acquisition of ownership to the bloc of securities under gift or swap contracts, the total nominal value of which exceeds the amount identified in [Part 1, Art. 15 of the Law of Ukraine “On Preventing and Countering Legalization \(Laundering\) of Proceeds of Crime, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction”](#);

offset of liabilities under securities transactions on the over-the-counter market;

buying blocks of shares of Ukrainian issuers on the over-the-counter market by residents from non-residents at the prices exceeding their nominal value;

effecting transactions with securities known from reliable sources to have a high risk of being used for legalization (laundering) of proceeds of crime, financing of terrorism, and financing of proliferation of weapons of mass destruction;

effecting transactions with securities of the issuer, known from reliable sources to be absent at its location;

5) other services, specifically in the following cases:

regular (independently established by the subjects, except banks, in internal documents based on the client's operation profile) receiving / provision / return of financial assistance, loans, credits, and other borrowings;

person's delivery of a financial transaction order through a representative (intermediary) if the representative (intermediary) performs the person's order without establishing direct (personal) contact with the subject;

effecting a sales transaction or assignment of the right of a monetary claim.

2. For the subjects, except banks, when providing any services to the client, except in the following cases:

regular (independently established by the client in internal documents based on the client's operation profile) entering into term agreements or use of other derivative financial instruments, especially those that do not provide for delivery of an underlying asset, under financial transactions with one or several counterparties, resulting in the person's constant income or constant loss;

buying securities using the money that was preliminarily deposited in cash to the professional securities market participant's cash department, or cash which was transferred to the professional securities market participant's account through a banking institution, payment system;

early termination of an insurance contract with transfer of money in favor of a third party;

payment of insurance payments by a person who is not the policy holder;

payment by the resident insurer (reinsurer) of insurance payments, payments (reimbursement) under a reinsurance contract entered into with a non-resident insurer (reinsurer) or receiving insurance (reinsurance) payments, payments (reimbursement) from non-residents;

provision of large loans by a credit union to the head, members of the supervisory board, revision commission, credit committee, and the credit union board with the interest on them lower than the average on similar contracts during the same period;

entering into surety agreement with a person on loan repayment in a different credit institution if this person on many occasions entered or tried to enter into such agreements on condition that this person provided money to this credit union (surety provider) to be entered to the deposit account and there is an outstanding loan in a different credit institution;

receiving of loans (under a power of attorney) in the names of the credit union members and their early repayment;

depositing valuables at a pawnbroker's, specifically precious metals and precious stones to the amount which equals or exceeds ten minimum monthly salaries established by law as of the transaction day;

effecting transactions on paying out remittances which lack complete information on the initiator and recipient;

obvious mismatch between the incoming/outgoing payments and the actual payment purpose;

impossibility of establishing a person's counterparties, subject's acceptance of funds (payment documents for their payment) from a person which sends funds to the address of another party of a civil agreement as a consequence of which such costs are returned without completing the financial transaction due to inability to locate such another party or due to its refusal to accept them;

effecting transactions with rough diamonds, the country of origin/location of which is not a party to the Kimberley Process;

natural person's buying jewelry or household metals from precious items, and/or precious stones (same-type items), and/or certified precious stones to an amount which equals or exceeds fifty minimum monthly salaries established by law as of the transaction day;

effecting large-scale financial transactions on the sale of commodities (payment of services), the value of which is difficult or impossible to determine, specifically items of intellectual property, some types of services that have no constant market value, consulting, legal, audit services;

a client's attempts at transactions with arrested real estate;

effecting transactions with real estate, the price of which differs from the market one.